

HELPFUL HINTS FOR SECRETARIES, PARALEGALS AND LAWYERS FROM JUDGE DONOVAN'S CHAMBERS

Forms:

We encourage the use of current, court-approved forms, for plans, motions, status conference reports, and orders. They are great time savers and help eliminate many ambiguities, evidentiary oversights, and delays.

Motions:

Motions should be filed at the same time as the notice of motion, preferably with a proof of service. A notice of motion alone is not sufficient to put a matter on calendar.

Tabs for exhibits and declarations or other attachments are very important, particularly if the papers are lengthy or complicated. All copies should be tabbed. The tabs should be visible at a glance and should be durable.

Motions not supported by declarations or persuasive evidence will be denied.

If the judge issues a tentative ruling on an uncontested matter and excuses the movant's appearance, but a party appears in court to contest the motion, the judge will listen briefly and either allow the tentative ruling to stand or continue the matter so that absent parties can be afforded an opportunity to be heard. If the matter is continued, the courtroom deputy will call the moving party with the date and time of the continued hearing. The moving party should give notice of the continued hearing.

The judge changes tentative rulings occasionally.

Declarants normally are not required to be present at hearings on motions.

Oral testimony seldom is required or allowed unless the judge has agreed in advance to hear oral testimony. If live cross examination is essential, be sure to make arrangements for cross examination in advance, with opposing counsel first, and then through the judge's law clerk Veronika Vogler at (213) 894-1577.

If a matter is settled or will be withdrawn, continued or taken off calendar, please inform the judge's law clerk Veronika Vogler at (213) 894-1577 or the judge's courtroom deputy Pat Pennington at (213) 894-6172 as soon as possible and file and serve an appropriate notice.

Relief From Stay - Unlawful Detainer and Questionable Real Estate Transfers:

The judge hears relief from stay motions on 5 court days' notice involving (1) residential unlawful detainer; (2) post-petition transfers of real property; or (3) pre-petition transfers of real property to the debtor either (a) within 90 days of the petition date or (b) involving fractionalized transfers of real property. An order shortening time is not required in any such instance. Pleadings should be filed and served at least 5 court days prior to the hearing. Proof of service should be filed when the pleadings are filed, if possible.

Rule 9019 Motions Affecting Adversary Proceedings:

While a motion for approval of a proposed compromise sometimes must be filed in the main bankruptcy case, please be sure to follow up promptly with a separate motion or application in the adversary to dismiss the adversary once the compromise has been approved by the court.

Emergency and Ex Parte Applications:

Emergency hearings should be requested only when a true emergency exists that was not self-inflicted. The moving party should file an ex parte application only if there is a very good reason to warrant a hearing on shortened time.

When filing an emergency motion, the moving party should telephone the judge's law clerk Veronika Vogler ahead of time to alert her to expect the papers.

The judge usually requires moving papers before he sets an emergency hearing.

If an ex parte application to hear a matter on shortened time is granted, notice by overnight delivery, telephone and/or fax usually is required.

Status Conferences:

A thorough, written status report, filed 10 days in advance, is required before each chapter 11 and adversary status conference hearing (except when a default has been entered against all defendants in an adversary and a motion for default judgment has been filed). In adversary proceedings, use of court-approved status conference report forms is strongly recommended.

Objections to Proof of Claims:

On objections to proof of claim, the judge requires admissible evidence and legal grounds to be set forth as required by the Bankruptcy Code, Bankruptcy Rules, and especially Local Bankruptcy Rule 3007-1.

Reaffirmation Agreements:

A hearing always is required on reaffirmation agreements when the debtor is not represented by an attorney.

The judge believes that a reaffirmation agreement with a debtor who is current on payments to a secured creditor is most likely unfair to the debtor. Such an agreement needlessly subjects the debtor to the risk of ongoing personal liability on a debt that is current, thus undermining the "fresh start" and freedom from pre-petition personal debt normally afforded to a debtor by bankruptcy.

Orders:

Please don't request a walk-through without a very good reason. The judge normally signs orders promptly. If more than 5 court days have passed since you

submitted the order, you should check webPACER, or you may, if necessary, telephone the judge's administrative law clerk Candace Crociani at (213) 894-3728 to check on the status of the proposed order.

When a tentative ruling has been announced, the moving party or the prevailing party may drop off the proposed order in the courtroom or in our courtesy box on the day of the hearing. However, if you need a conformed copy, you must lodge your proposed order at the filing window. If you can't submit an order by the day of the hearing, please lodge it promptly at the filing window in the clerk's office.

Appearances:

The judge generally allows telephone appearances, as a courtesy, not as a right. It is the requester's duty to make arrangements and to place the call. Requests should be made by calling the judge's administrative law clerk Candace Crociani at (213) 894-3728 at least one day before the hearing.

Attorneys may request second call by calling Candace at (213) 894-3728 or by making the request with the court recorder before the calendar call. The judge normally will honor reasonable requests for a limited amount of time, subject to balancing the reason for the request against the inconvenience to other parties.

Attorneys may request priority when they check in with the judge's court recorder Wanda Toliver just before the calendar call. Within reason, such requests usually are granted.

Requests for Transcripts:

You may request a tape recording or a transcript of a hearing by contacting the judge's court recorder Wanda Toliver at (213) 894-6131.

Common Problems and Suggestions:

Lawyers who wish to introduce business records in evidence should pay close attention to Rule 803(6) of the Federal Rules of Evidence.

Do not attach a form entitled "Instructions to the Parties" to relief motions. This form is not court-approved. Versions that we see almost invariably contain misleading statements and erroneous, misleading information.

Please submit a proposed order granting an ex parte application for an order shortening time when the ex parte application is filed.

Be sure to move to reopen the case under § 350 when bringing a motion to avoid a lien discovered after the debtor has been discharged and the case has been closed.

Be sure you attach the service list to the Notice of Entry.

Don't staple a pleading more than once, in the upper left hand corner.

Please throw away staplers that don't work. Open staples are a constant nuisance.

Don't blue-back copies. Only the original needs to be blue-backed.

Don't fold the blue-back over the top of the pleading.

Please use tabs for exhibits and declarations, always!

12/15/03